



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS	REDEVELOPMENT AGENCY
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Greg Sellers, Mayor Pro Tempore	Greg Sellers, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Hedy Chang, Council Member	Hedy L. Chang, Agency Member
Steve Tate, Council Member	Steve Tate, Agency Member

WEDNESDAY, JANUARY 21, 2004

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL AND REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

6:00 P.M.

A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

6:00 P.M.

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 4

2.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority: Government Code 54956.8
Property: 215 Tennant Avenue, APN: 817-04-002
Negotiating Parties:
 For City: City Manager, Director of Public Works, City Attorney, and Attorney
 Gale Connor
 For Property Owners: Robert and Teresita Carrasco and Bruce Tichinin
Closed Session Topic/Under Negotiation: Price and Terms of Payment

3.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority: Government Code 54956.8
Property: 95 Tennant Avenue, APN: 817-04-006
Negotiating Parties:
 For City: City Manager, Director of Public Works, City Attorney, and Attorney
 Gale Connor
 For Property Owners: Marko and Klara Gera
Closed Session Topic/Under Negotiation: Price and Terms of Payment

4.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority: Government Code 54956.8
Property: 145 Tennant Avenue, APN: 817-04-008
Negotiating Parties:
 For City: City Manager, Director of Public Works, City Attorney, and Attorney
 Gale Connor
 For Property Owners: Joseph Hernandez, as trustee; et al
Closed Session Topic/Under Negotiation: Price and Terms of Payment

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORT

Council Member Tate

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

City Treasurer's Quarterly Report

City Treasurer Roorda

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

CONSENT CALENDAR:

ITEMS 1-14

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate

Page

Consent Calendar: 1 - 10 Minutes

- 1. DECEMBER 2003 CITY FINANCE AND INVESTMENT REPORT 1**
Recommended Action(s): Accept and File Report.

CONSENT CALENDAR:

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
2.	<u>AMENDMENT TO PLANNING DIVISION CONTRACT SERVICES BUDGET FOR UNANTICIPATED ENVIRONMENTAL CONSULTING SERVICES</u> Recommended Action(s): Approve the Appropriation of \$7,000 from the Community Development Fund Balance (206) to Fund Unanticipated Environmental Consulting Services.	27
3.	<u>AMEND AGREEMENT WITH THE STROMBOTNE LAW FIRM</u> Recommended Action(s): Authorize the City Manager to Execute an Amendment to Agreement with the Strombotne Law Firm.	29
4.	<u>THE USA PATRIOT ACT</u> Recommended Action(s): Authorize the Mayor to Execute and Send Correspondence to the United States Attorney General, with a Copy to the California Congressional Delegation, Regarding Concerns About the USA Patriot Act (PL 107-56).	47
5.	<u>AQUATICS CENTER PROJECT – DECEMBER CONSTRUCTION PROGRESS REPORT</u> Recommended Action(s): Information Only.	93
6.	<u>ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9234, CAPRIANO PHASE I</u> Recommended Action(s): 1. Adopt Resolution Accepting the Subdivision Improvements Included in Tract 9234, Commonly Known as Capriano Phase I; and 2. Direct the City Clerk to File a Notice of Completion with the County Recorder’s Office.	101
7.	<u>ACCEPTANCE OF THE CONSTRUCTION OF BUTTERFIELD BOULEVARD – PHASE IV IMPROVEMENTS PROJECT</u> Recommended Action(s): 1. Accept as Complete the Construction of Butterfield Boulevard – Phase IV Improvements Project in the Final Amount of \$3,609,164; 2. Approve an Amendment to the Professional Services Agreement with MH Engineering for Design and Survey of Butterfield Boulevard Extension Project, Increasing the Approved Amount From \$172,957 to \$201,756; and 3. Direct the City Clerk to File the Notice of Completion with the County Recorder’s Office.	107
8.	<u>APPROVAL OF IMPROVEMENT AGREEMENT FOR 1295 EAST DUNNE AVENUE (APN 728-17-023)</u> Recommended Action(s): 1. Approve the Improvement Agreement with Arch Design, Inc.; and 2. Authorize the City Manager to Sign the Agreement on Behalf of the City.	111
9.	<u>AMENDMENT TO ANNUAL CONTRACT WITH MONTEREY COUNTY LABORATORY FOR WATER SAMPLING AND ANALYSIS</u> Recommended Action(s): 1. Approve the Amendment to the Agreement Dated 2003 with Monterey County Laboratory to Increase the Maximum Compensation for Fiscal Year 2003-2004 from \$50,000 to \$115,000; and 2. Approve the Appropriation of \$50,000 from the Unappropriated Water Fund Balance (650) to Fund Unanticipated Perchlorate Testing and EPA Water Quality Testing.	123

CONSENT CALENDAR:

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
10.	<u>ADOPT ORDINANCE NO. 1644, NEW SERIES</u>	127
	<u>Recommended Action(s):</u> Waive the Reading, and <u>Adopt</u> Ordinance No. 1644, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1310, NEW SERIES WHICH PREZONED 9.45 ACRES LOCATED ON THE WEST SIDE OF DEWITT AVENUE NORTH OF SPRING AVENUE FROM COUNTY HS, HILLSIDE TO CITY R-1 (12000)/SINGLE FAMILY RESIDENTIAL PLANNED DEVELOPMENT. THE AMENDMENT INCLUDES THE ADOPTION OF A PRECISE DEVELOPMENT PLAN FOR THE 21-LOT, 9.45-ACRE RESIDENTIAL PLANNED DEVELOPMENT (APNs 773-08-012 through -016).	
11.	<u>ADOPT ORDINANCE NO. 1645, NEW SERIES</u>	133
	<u>Recommended Action(s):</u> Waive the Reading, and <u>Adopt</u> Ordinance No. 1645, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL PRE-ZONING 27.1 ACRES, FROM COUNTY A-20 TO PUBLIC FACILITIES FOR APNS 725-01-012 & 013 AND 0.7 ACRES FROM COUNTY A-20 TO R1-7,000 FOR APN 725-01-021 FOR APPLICATION ZA-03-17: BURNETT-MHUSD SOBRATO HIGH SCHOOL.	
12.	<u>ADOPT ORDINANCE NO. 1646, NEW SERIES</u>	139
	<u>Recommended Action(s):</u> Waive the Reading, and <u>Adopt</u> Ordinance No. 1646, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT, DA 03-10 FOR MP 02-14: COCHRANE – COYOTE ESTATES (APNS 728-35-008, 010; 728-36-001, 010).	
13.	<u>ADOPT ORDINANCE NO. 1647, NEW SERIES</u>	143
	<u>Recommended Action(s):</u> Waive the Reading, and <u>Adopt</u> Ordinance No. 1647, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1597, N.S., AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-99-26: MALAGUERRA-ANSUINI/MANCIAS TO INCORPORATE A NINE-MONTH EXTENSION OF TIME FOR SIX, PHASE II UNITS OF THE 15-UNIT DEVELOPMENT. (APNs 728-35-016 & -017)/(DAA-00-05: MALAGUERRA – MANCIAS).	
14.	<u>ADOPT ORDINANCE NO. 1648, NEW SERIES</u>	149
	<u>Recommended Action(s):</u> Waive the Reading, and <u>Adopt</u> Ordinance No. 1648, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1622, N.S., AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-00-01: BERKSHIRE - SINGH TO INCORPORATE A THREE-MONTH EXTENSION OF TIME FOR THE FOUR-UNIT PROJECT. (APN 764-23-054)/(DAA-00-08: BERKSHIRE - SINGH).	

City Council Action (Continued)

CONSENT CALENDAR:

ITEMS 15-17

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
15.	<u>ADOPT ORDINANCE NO. 1649, NEW SERIES</u>	155
	<u>Recommended Action(s):</u> Waive the Reading, and <u>Adopt</u> Ordinance No. 1649, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT ON A .30 ACRE AREA OF APN 726-24-023 CHANGING THE ZONING DESIGNATION FROM R-3 TO R-2/RPD AND APPROVAL OF A RESIDENTIAL PLANNED DEVELOPMENT OVERLAY AND PRECISE DEVELOPMENT PLAN FOR A 16 UNIT R-2 (3,500)/RPD MULTI FAMILY LOW DEVELOPMENT LOCATED ON THE EAST SIDE OF MCLAUGHLIN AVENUE, NORTH OF CENTRAL AVE. (APNS 726-24-006, 007, 022, 023 & 024).	
16.	<u>ADOPT ORDINANCE NO. 1650, NEW SERIES</u>	163
	<u>Recommended Action(s):</u> Waive the Reading, and <u>Adopt</u> Ordinance No. 1650, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT DA-03-02: MCLAUGHLIN-JONES (APNS 726-24-006 & 007).	
17.	<u>RESULTS OF PRELIMINARY TRAFFIC CALMING STUDIES AT FOUR CITY LOCATIONS</u>	203
	<u>Recommended Action(s):</u> Information Only at This Time, Pending Approval of Neighborhood Traffic Management Policy.	

Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 18-19

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
18.	<u>DECEMBER 2003 RDA FINANCE AND INVESTMENT REPORT</u>	217
	<u>Recommended Action(s):</u> Accept and <u>File</u> Report.	
19.	<u>ANNUAL REDEVELOPMENT REPORTS FOR FISCAL YEAR 2002-2003</u>	227
	<u>Recommended Action(s):</u> File the 2002-2003 Redevelopment Agency's Annual Report of Financial Transactions, Housing Annual Report of Housing Activity, and Property Report.	

City Council Action

PUBLIC HEARINGS:

	Time Estimate		Page
20.	5 Minutes	<u>REFINANCING FEE</u>	287
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Adopt</u> Resolution.	
21.	5 Minutes	<u>FEE IMPLEMENTING CITYWIDE BURROWING OWL HABITAT MITIGATION PLAN</u>	293
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Adopt</u> Resolution.	
22.	30 Minutes	<u>WATER RATES</u>	299
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Adopt</u> Resolution Revising Monthly Water System Fees.	
23.	10 Minutes	<u>DEVELOPMENT AGREEMENT AMENDMENT DAA-02-07: SHAFER-BAMDAD</u>	325
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Motion to Waive</u> the Reading in Full of Development Agreement Amendment Ordinance for DAA-02-07: Shafer-Bamdad.	
		Action- <u>Motion to Introduce</u> Development Agreement Amendment Ordinance for DAA-02-07: Shafer-Bamdad, by Title Only. (Roll Call Vote)	
24.	15 Minutes	<u>ZA-03-16: CITY OF MORGAN HILL – ZONING TEXT AMENDMENT - SIGN CODE</u>	343
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Motion to Waive</u> the Reading in Full of Zoning Text Amendment Ordinance Amending Title 18 of the Municipal Code to Allow Changeable Copy signs for Movie Theaters.	
		Action- <u>Motion to Introduce</u> Zoning Text Amendment Ordinance by Title Only. (Roll Call Vote)	

PUBLIC HEARINGS:

	Time Estimate		Page
25.	10 Minutes	<u>ZA-03-21: CITY OF MORGAN HILL – ZONING TEXT AMENDMENT – INTERIM USE PERMITS</u>	353
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Motion to Waive</u> the Reading in Full of Zoning Text Amendment Ordinance Amending Title 18 of the Municipal Code Regarding Permits for Interim Uses.	
		Action- <u>Motion to Introduce</u> Zoning Text Amendment Ordinance by Title Only. (Roll Call Vote)	
26.	5 Minutes	<u>ZA-03-19: CITY OF MORGAN HILL-ZONING TEXT AMENDMENT - COMMUNITY ACTIVITY SIGNS AND CHANGEABLE COPY SIGNS FOR PUBLIC AGENCIES, SCHOOLS, PLAYHOUSES AND RELIGIOUS INSTITUTIONS</u>	369
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Continue</u> Public Hearing to February 18, 2004.	

City Council Action

OTHER BUSINESS:

	Time Estimate		Page
27.	5 Minutes	<u>CAPITAL FUNDS FOR DAYWORKER CENTER</u>	371
		<u>Recommended Action(s): Council Discretion.</u>	
28.	20 Minutes	<u>UPDATE ON MEDICAL SERVICES OBJECTIVES</u>	373
		<u>Recommended Action(s): Consider</u> Report with Recommendations from the Morgan Hill Community Health Foundation and DePaul Health Center.	
29.	10 Minutes	<u>COMMUNITY INDOOR RECREATION CENTER – RESULTS FROM COMMUNITY MEETING</u>	379
		<u>Recommended Action(s): Receive</u> Staff Report on Public Meeting Held January 20, 2004 Regarding Design of Indoor Recreation Center.	
30.	15 Minutes	<u>COUNCIL LIBRARY SUB-COMMITTEE SITE STATUS REPORT</u>	383
		<u>Recommended Action(s):</u>	
		1. <u>Review</u> Four Site Options as Recommended by the Council Library Sub-Committee; and	
		2. <u>Provide</u> Recommendations for Further Analysis of All or Selected Sites.	
31.	15 Minutes	<u>APPROVAL OF NEIGHBORHOOD TRAFFIC MANAGEMENT (TRAFFIC CALMING) POLICY</u>	395
		<u>Recommended Action(s): Approve</u> Neighborhood Traffic Management Policy.	

Redevelopment Agency Action

OTHER BUSINESS:

	Time Estimate		Page
32.	60 Minutes	<u>SELECTION OF EL TORO BREWING AS THE DEVELOPER FOR THE POLICE FACILITY</u>	423
		<u>Recommended Action(s):</u>	
		1. <u>Select</u> El Toro Brewing to Enter into a 120 Day Exclusive Right to Negotiate (ERN) Agreement with Key Milestones for Performance;	
		2. <u>Approve</u> the Parameters for Negotiation during the ERN Period;	
		3. <u>Authorize</u> the Executive Director to Prepare, Negotiate, Execute, and Implement the ERN; Including Termination of the ERN for Failure to Meet Key Milestones; and	
		4. <u>Direct</u> Staff to Provide Regular Reports on the Status/Process of the ERN.	

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT